IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8348 OF 2005

Chairman,
Udaygiri Shahuwadi Taluka Sahakari
Kharidi Vikri Sangh Ltd. & ors. Petitioners

versus

Krushant Rangrav Nikam & others Respondents

Mr.P.R.Arjunwadkar for petitioners.

Mr.C.G.Gavnekar for respondent no.1.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 1st February 2006

PC :

1. Heard Shri Arjunwadkar for petitioner and Shri Gavnekar for respondent no.1-original plaintiff. It is not necessary to effect service on defendant nos.2 to 4 who are impleaded as respondents 2 to 4 in this petition.

2. The petitioners are original defendants 5 and 6 in Regular Civil Suit No.34 of 2004 on the file of Civil Judge, Junior Division, Malkapur at Shahuwadi. They are also appellants in

Miscellaneous Civil Appeal No.45 of 2005, which was disposed of by the impugned order by the Third Additional District Judge, Kolhapur.

3. It is not necessary to make a detailed reference to the facts at this interlocutory stage to appreciate contentions of Shri Arjunwadkar. He submits that the petitioners were aggrieved by the order passed by the Trial Court, on the application (Exhibit-J), on 1st February 2005. The Trial Court allowed the application preferred by the first respondent-original plaintiff and directed petitioners herein to maintain status-quo in respect of Gat No.347/1 till disposal of the suit.

4. In the Miscellaneous Civil Appeal to challenge this order, the learned Additional District Judge, according to Shri Arjunwadkar, is in error in granting an injunction against petitioners who are appellants before me, although no cross appeal was preferred. In his submission, under the garb of clarifying the order passed by the Trial Court, an injunction restraining the petitioners from obstructing the joint possession of the first respondent-plaintiff over the suit land could not

have been granted.

5. Shri Gavnekar supports this order and submits that the Trial Court's order of maintaining status-quo is very clear and unambiguous and requires no interference.

6. In my view, it is not necessary to enter into any larger controversy. The matter was placed before me on 18th January 2006. It was argued for some time.

7. I recorded at that time a request made by Shri Arjunwadkar - learned counsel appearing for petitioner, that time be granted and he is willing to file an affidavit about present status of the property and further that petitioners would maintain status-quo in terms of the affidavit.

8. An affidavit has been filed and photographs annexed to this affidavit show that there is wire fencing around the land in question. Barring that, no operations have been carried on. Both sides are willing to maintain status-quo as is prevailing on the date of filing of this affidavit and hearing of the suit can be

expedited.

9. The order of Lower Appellate Court is modified to this extent namely that instead of an injunction being issued in favour of the petitioners, they are directed to maintain status-quo prevailing as on 1st February 2006 in respect of land Gat No.347/1, Mauje Babmwade, Taluka Shahuwadi, District Kolhapur till hearing and final disposal of the Regular Civil Suit No.34 of 2004.

10. Regular Civil Suit No.34/2004 shall be tried expeditiously and an endeavour shall be made by the Trial Court to dispose of the same within a period of six months from today. The affidavit of Shri Shankar Ganpati Patil filed on behalf of Udaygiri Shahuwadi Taluka Sahakari Kharidi Vikri Sangh Marydit is taken on record. The statements therein shall bind both, the society, it’s Chairman as well as deponent Manager. The status-quo in respect of land Gat No.347/1 as prevailing in the photographs and continuing today i.e. 1st February 2006 shall be maintained. till the disposal of Regular Civil Suit No.34 of 2004.

11. Both sides bring to my notice that land Gat No.347/1 admeasures 4 Hectors 66 Ares out of which in the plaint, in para no.1, it is described as 1 Hector 6.05 Ares. It is further admitted by both sides that out of this portion an area of 33.5 Guntha covers the sale deed in favour of petitioners herein. Needless to state that the order of status-quo shall be restricted to this portion namely that covered by the sale deed. Further needless to state that status-quo shall be maintained by both sides in respect of this portion.

(S.C.DHARMADHIKARI, J.)